

## CHAPTER 109 HOUSING AND EMPLOYMENT DISCRIMINATION

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**109-1. Declaration of Policy.** 1. The practice of providing equal opportunities in housing and employment to persons without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status is a desirable goal of the city and a matter of legitimate concern to its government. Discrimination against any city resident endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of democratic society and adversely affects the general welfare of the community. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in housing below the standards to which they are entitled. Denial of equal opportunity in employment deprives the community of the fullest productive capacity of those of its members so discriminated against and denies to them the sufficiency of earnings necessary to maintain the standards of living consistent with their abilities and talents. Provision for adequate safeguards against such discrimination is a proper and necessary function of city government. In order to protect the health, safety and general welfare of all inhabitants of the city, it is declared to be the public policy of this city to foster and enforce to the fullest extent the protection by law to equal opportunity in housing and gainful employment without regard to sex, race,

religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status and workplace free from discrimination. To fully effectuate this policy of promoting nondiscrimination, the city shall endeavor to eliminate all discrimination that may occur in housing and employment in the city of Milwaukee.

2. Where applicable, this subchapter shall be interpreted and applied consistently with the requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. sections 3601, et seq., 24 C.F.R. sections 100, et seq. and ss. 66.1011, 106.50 and 111.31, Wis. Stats.

**109-3. Definitions.** In this chapter:

1. COMMISSION means the equal rights commission.

2. COMPLAINANT means any person who files a complaint alleging a violation of this chapter.

3. CONCILIATION means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent and the commission.

4. CONCILIATION AGREEMENT means a written agreement setting forth the resolution of the issues in conciliation.

5. COVERED MULTI-FAMILY DWELLINGS as used in s. 109-5-10 means buildings consisting of 4 or more units if such buildings have one or more elevators, and ground floor units in other buildings consisting of 4 or more units.

6. EMPLOYEE does not include any individual employed by the person's parents, spouse or child, or any individual employed by the city of Milwaukee, the housing authority and the redevelopment authority of the city of Milwaukee, any agency of the city, or any other municipal, state or federal governmental body.

7. EMPLOYER means any person engaging in any activity, enterprise or business employing one or more individuals but shall not include a social club or fraternal society under

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ch. 188, Wis. Stats., with respect to a particular job for which the club or society seeks to employ or employs a member, if the particular job is advertised only within the membership.

**8. EMPLOYMENT AGENCY** means any person who regularly undertakes to procure employes or opportunities for employment for any other person.

**9. FAMILIAL STATUS** means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individuals; or the designee of the parent or other person having such custody, with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

**10. DISABILITY** means, with respect to a person, any of the following:

a. A physical or mental impairment which substantially limits one or more of such person's major life activities.

b. A record of having such an impairment.

c. Being perceived as having such an impairment.

d. This term does not include current, illegal use of or addiction to a controlled substance. The behavioral manifestations of a mental disability may be taken into consideration in determining whether or not the applicant is qualified. A housing provider may consider a history of disruptive, abusive, or dangerous behavior.

**11. HOUSING** means any building, structure or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home as defined in s. 66.0435, Wis. Stats., and a trailer as defined in s. 246-1-5, Milwaukee code, and any land which is offered for sale, lease or use as a site for a building, structure or part thereof intended or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home park as defined in s. 66.0435, Wis. Stats., and

a trailer house community as defined in s. 246-1-6, Milwaukee code. Such definition of "housing" is qualified by the exceptions in s. 109-7.

**12. LABOR ORGANIZATION** means:

a. Any organization, agency or employee representation committee, group, association or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment; or

b. Any conference, general committee, joint or system board or joint council which is subordinate to a national or international committee, group, association or plan under par. a.

**13. MARITAL STATUS** means the status of being married, separated, divorced, widowed or single.

**14. PERSON** means one or more individuals, labor organizations, corporations, partnerships, associations, cooperatives, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy or receivers or other fiduciaries, and the agent or agents of any of the foregoing but, because of actual, potential or perceived conflicts of interest, shall not include the city of Milwaukee, the housing authority and the redevelopment authority of the city of Milwaukee, any agency of the city, or any other municipal, state or federal governmental body or any agent, officer or employee acting in the course of such employment.

**15. PROTECTED PERSON** means any individual intended to be protected from discrimination under this chapter.

**16. RESPONDENT** means the person or other entity accused in a complaint of an unfair housing or employment practice and any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under s. 109-13-3-a.

**17. SEXUAL HARASSMENT** means unwelcome sexual advances; unwelcome physical contact of a sexual nature; or verbal or physical conduct of a sexual nature which includes, but is not limited to, deliberate or

repeated unsolicited gestures, verbal or written comments and display of offensive sexually graphic materials.

**18.** SEXUAL ORIENTATION includes homosexuality, heterosexuality and bisexuality by preference or practice.

**19.** SOURCE OF INCOME includes, but is not limited to, moneys received from public assistance, pension and supplementary security income. Source of income shall be limited to legally derived income and shall be subject to reasonable and good-faith efforts of verification.

**20.** TRANSFER shall not apply to the transfer of property by will or gift.

**109-5. Housing Discrimination Prohibited.** No person may engage in any act of discrimination with respect to housing against any individual on the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status. No person may:

**1.** Refuse to sell or rent after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny housing to any protected person.

**2.** Discriminate against any protected person in the terms, conditions or privileges of sale or rental of housing, or in the provision of services or facilities in connection therewith.

**3.** Make, print or publish, or cause to be made, printed or published any notice, statement or advertisement with respect to the sale or rental of housing that indicates any unlawful preference, limitation or discrimination, or an intention to make any such preference, limitation or discrimination to the exclusion of any protected person.

**4.** Represent to any protected person that any housing is not available for inspection, sale or rental when such housing is in fact so available.

**5.** Whose business includes engaging in residential real estate-related transactions, discriminate against any protected person in making available such a transaction, or in the terms or conditions of such a transaction.

**a.** In this subsection "residential real estate-related transaction" means any of the following:

**a-1.** The making or purchasing of loans providing other financial assistance:

**a-1-a.** For purchasing, constructing, improving, repairing or maintaining a dwelling; or

**a-1-b.** Secured by residential real estate.

**a-2.** The selling, brokering or appraising of residential real property.

**b.** Nothing in this subsection prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status. Inquiries concerning source of income may be made if they are reasonably directed toward determining solvency, reliability, credit record or ability to pay, and are not a subterfuge to evade the purposes of this chapter.

**6.** In the business of insuring against hazards, refuse to enter into or exact different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling on the basis of an individual's protected status.

**7.** Refuse to renew a lease, causing the eviction of a tenant from rental housing, or engaging in the harassment of a tenant on the basis of such tenant's protected status.

**8.** Deny any person access to or membership or participation in any multiple-listing service, real estate broker's association or other service, organization or facility relating to the business of selling or renting dwellings or discriminate against a person on the basis of such person's protected status.

**9.** Induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person of a particular sex, race, religion, color, national origin or ancestry, age, disability, source of income, economic status, marital status, sexual orientation or familial status, or by representations to the effect that such present or prospective entry will or may result in:

**a.** The lowering of real estate values in the area concerned.

**b.** A deterioration in the character of the area concerned.

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c. An increase in criminal or anti-social behavior in the area concerned.

d. A decline in the quality of the schools or other public facilities serving the areas.

**10.** a. Discriminate in the sale or rental of, or otherwise make unavailable or deny, housing to any buyer or renter because of a disability of:

a-1. That buyer or renter.

a-2. A person residing in or intending to reside in that dwelling after it is so sold, rented or made available.

a-3. Any person associated with that buyer or renter.

b. For purposes of this subsection, discrimination includes but is not limited to:

b-1. A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

b-2. A refusal to make reasonable accommodation in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

b-3. In connection with the design and construction of covered multi-family dwellings for first occupancy after March 13, 1991, a failure to design and construct dwellings in such a manner that:

b-3-a. The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons.

b-3-b. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs.

b-3-c. All premises within such dwellings contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats and other environmental controls in accessible locations; reinforcements in bath-

room walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

b-3-d. Compliance with the appropriate requirements of the American National Standard for building and facilities providing accessibility and usability for physically disabled people, commonly cited as ANSI A117.1, suffices to satisfy the requirements of subpar. c.

**109-7. Exceptions.** Nothing in this chapter shall:

**1.** Prevent any person from renting or leasing housing, or any part thereof, to solely male or female persons if such housing or part thereof is rented with the understanding that toilet and bath facilities must be shared with the landlord or with other tenants.

**2.** Limit the applicability of reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

**3.** Prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin.

**4.** Prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

**5.** Regarding familial status, apply with respect to housing for older persons.

a. As used in this subsection, "housing for older persons" means any housing:

a-1. Provided under any state or federal program that is specifically designed and operated to assist elderly persons as defined in the state or federal program.

a-2. Intended for and solely occupied by persons 62 years of age or older.

a-3. Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing for older persons shall require at least the following:

a-3-a. Significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons.

a-3-b. At least 80 percent of the units are occupied by at least one person 55 years of age or older per unit.

a-3-c. Publication of and adherence to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

b. Housing shall not fail to meet the requirements for housing for older persons by reason of:

b-1. Persons residing in such housing as of the effective date of this chapter, January 2, 1991, who do not meet the age requirements in par. a-2 or 3, provided that new occupants of such housing meet the age requirements of par. a-2 or 3.

b-2. Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of par. a-2 or 3.

6. Prohibit the development of housing designed specifically for persons with a disability and discrimination on the basis of disability with respect to such housing.

7. Prevent a landlord, with respect to an eyesight impaired, hearing impaired or mobility impaired person who owns a guide or service animal, from:

a. Imposing reasonable rental regulations on such animals, as necessary for health, safety and welfare, but any lease provision which purports to waive or avoid the requirements of these provisions shall be void and unenforceable.

b. Requiring the animal's owner to provide current proof that the animal has successfully passed a course of training at a bona fide school for training such animals.

c. Charging a tenant for any damage caused by the animal.

d. In the case of an owner-occupied dwelling, pars. a to c shall not apply if the owner or a member of his or her

immediate family occupying the dwelling unit possesses and, upon request, presents to the guide or service animal owner a certificate signed by a physician which states that the owner or family member is allergic to animals.

8. Affect any person's decision to share occupancy of a lodging room, apartment or dwelling unit with another person.

9. Regarding familial status, apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than 2 families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

10. Prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance.

**109-9. Employment Discrimination Prohibited.** No person may engage in any act of discrimination with respect to employment against any individual on the basis of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status.

1. No person individually, or in concert with others, may fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to his or her compensation, terms, conditions or privileges of employment in violation of this section; provided that an employer who is discriminating with respect to compensation in violation of this subsection shall not, in order to comply with this subsection, reduce the wage rate of any employee.

2. No person individually or in concert with others may limit, segregate or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee in violation of this section.

3. No employment agency may fail or refuse to refer for employment or otherwise to discriminate against any individual in violation of this section.

4. No labor organization may:

a. Exclude or expel from its membership or otherwise discriminate against any individual in violation of this section.

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b. Limit, segregate or classify its membership or applicants for membership, or classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his or her status as an employee or as an applicant for employment in violation of this section.

c. Cause or attempt to cause an employer to discriminate against an individual in violation of this section.

5. No person may print or publish or cause to be printed or published any notice or advertisement relating to employment by the person or membership in or any classification or referral for employment by a labor organization, or relating to any classification or referral for employment by an employment agency, indicating any preference, limitation, specification or discrimination in violation of this section, subject to the limitations in s. 109-11.

6. No person may refuse to reasonably accommodate an employee's or prospective employee's disability, subject to the limitations in s. 109-11-5.

7. No employer, labor organization, or employment agency or other person may engage in sexual harassment.

a. It shall constitute employment discrimination in violation of this section when:

a-1. An employee's acquiescence in or submission to sexual harassment is made either explicitly or implicitly a term or condition of employment.

a-2. An employee's acquiescence in or submission to sexual harassment is used as the basis or any part of the basis for employment decisions affecting the employee.

a-3. Sexual harassment has the purpose or effect of substantially interfering with an employee's work performance or of creating an intimidating, hostile or offensive work environment.

b. An employer, employment agency or labor organization is presumed responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized by the employer.

c. An employer, employment agency or labor organization is responsible for acts of sexual harassment of its employees by persons other than its agents or supervisory employees

if those acts occur while the complaining employee is performing service growing out of or incidental to his or her employment and if the employer or its agents or supervisory employee knew or should have known of the conduct.

8. **CONTRACT TO INCLUDE PROVISION.** All contracting agencies of the city of Milwaukee or any department thereof shall include in all contracts hereafter negotiated, or renegotiated by them, a provision obligating the contractor not to discriminate against any qualified employee or qualified applicant for employment because of sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation or familial status, and shall require the contractor to include a similar provision in all subcontracts.

**109-11. Exceptions and Special Cases. 1. RELIGION.** For purposes of this section, discrimination because of religion includes, but is not limited to, refusing to reasonably accommodate an employee's or prospective employee's religious observance or practice unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

a. It is not employment discrimination because of religion for a religious association not organized for private profit, or an organization or corporation which is primarily owned or controlled by such religious association, to give preference to an applicant or employee who is a member of the same or a similar religious denomination, in hiring or promotion to an instructional or policy-making position, including but not limited to the position of chaplain or counselor.

b. It is not employment discrimination because of religion for a fraternal organization, as defined in s. 614.01(1), Wis. Stats., to give preference to an employee or applicant who is a member or is eligible for membership in the fraternal organization, with respect to hiring to or promotion to the position of officer, administrator or salesperson.

2. **BONA FIDE OCCUPATIONAL QUALIFICATION.** Notwithstanding s. 109-9, it shall not be an unlawful employment practice for an employer, employment agency or labor organization to indicate within a notice or advertisement for employees, a preference, limitation, specification or discrimination based

on religion, sex, age, disability or national origin; or to employ, classify or refer for employment any individual on the basis of religion, sex, age, disability or national origin where such is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

**3. BONA FIDE DISTINCTIONS.** Notwithstanding any other provision of s. 109-9, it shall not be an unlawful employment practice for an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity, or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of sex, race, religion, color, national origin or ancestry, age, disability, source of income, marital status, sexual orientation or familial status.

**4. AGE.** a. It shall not be unlawful age discrimination to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of s. 109-9, except that no such employee benefit plan shall excuse the failure to hire any person.

b. Discrimination on the basis of age does not apply to any person less than 40 years of age.

**5. DISABILITY.** Discrimination because of disability is not prohibited if the employer, labor organization or employment agency can show that the disability is reasonably related to the individual's ability to adequately undertake the job-related responsibilities of that individual's employment. It is prohibited discrimination for an employer to contribute a lesser amount to the fringe benefits, including life or disability insurance coverage, of an employee because of his or her disability.

**6. MARITAL STATUS.** It is not employment discrimination because of marital status to prohibit an individual from directly supervising or being directly supervised by that individual's spouse.

**109-13. Other Acts Prohibited. 1.** No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter, or with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this chapter.

**2.** No person may aid, abet, incite, compel or coerce the doing of any act which violates this chapter or obstructs or prevents any person from complying with the provisions of this chapter.

**3.** No person, whether individually or in concert with others, may take any retaliatory action against or otherwise discriminate against any person who has opposed any discriminatory practices proscribed by this chapter or who has made a complaint, testified or assisted in any proceeding under this chapter.

**109-15. Equal Rights Commission. 1.** The mayor shall appoint an equal rights commission, subject to confirmation by the common council, consisting of 7 members, one of whom shall be elected chair at the first regular meeting of each calendar year by a majority of the members of the commission. The members shall be city residents, appointed from a representative cross-section of the community and shall continue to hold office only so long as they shall reside within the city. They shall receive compensation for their services.

**2.** Each member of the commission shall be appointed for a term of 3 years. Each member shall hold office for the balance of the unexpired term and until a successor is appointed and qualified. Any vacancy occurring otherwise than by expiration of term shall be filled by the mayor and confirmed by the common council for the unexpired term.

**3.** Four members shall constitute a quorum for the purpose of conducting business, and 4 votes shall be required to pass any commission decision.

**4.** The commission shall have the following powers and duties:

a. Receive complaints alleging violation of this chapter and attempt to eliminate or remedy any violation by means of conciliation, persuasion, education, litigation or any other means, to make the complainant whole again.

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b. Render from time to time, but not less than once a year, a written report of its activities and recommendations to the mayor and the common council.

c. Adopt rules and regulations consistent with this chapter and the laws of the state to carry out the policy and provisions of this chapter and the powers and duties of the commission.

d. Issue subpoenas under s. 885.01, Wis. Stats., to assist in the execution of its duties.

e. Designate commissioners or commission staff to carry out its duties.

f. Following a hearing conducted under this chapter:

f-1. Order a respondent to redress any injury occasioned by violation of this chapter.

f-2. Order a respondent to cease and desist from violation of this chapter.

f-3. Undertake any action necessary to effectuate the purpose of the chapter or to bring a respondent into compliance with this chapter.

g. Initiate proceedings seeking forfeiture for violation of this chapter or any lawful order issued by the commission under this chapter.

**109-17. Complaint Procedure.** The commission shall use the following procedures in acting on complaints of discrimination:

1. An aggrieved person may, not later than 300 days after an alleged discriminatory housing or employment practice has occurred or terminated, file a complaint with the commission alleging such discriminatory practice. The commission shall not investigate any complaint unless it is in writing and verified by the complainant.

2. Upon the filing of a complaint:

a. The commission shall serve notice upon the aggrieved person acknowledging the filing and advising the aggrieved person of the time limits within 30 days after receipt of the complaint.

b. Not later than 10 days after the filing or the identification of an additional respondent under sub. 3-a, the commission shall serve on the respondent a notice identifying the alleged discriminatory housing or employment practice and advising the respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint.

c. Each respondent may file, not later than 10 days after receipt of notice from the commission, an answer to the complaint.

d. The commission shall initiate and complete a probable cause investigation within 100 days after receipt of the complaint unless the circumstances render it impracticable, in which case, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

3. a. A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under sub. 2, to such person, from the commission.

b. The notice, in addition to meeting the requirements of sub. 2, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

4. The department of administration may employ such investigators and administrative law judges as it deems necessary to hear and decide complaints of discrimination and to assist in the administration of this chapter. The administrative law judges may propose findings and orders under this chapter.

5. If an investigator finds probable cause to believe that any discrimination has been or is being committed, the commission shall endeavor to eliminate the practice by conference, conciliation or persuasion. Upon completion of an investigation, the investigator shall prepare a final investigative report containing:

a. The names and dates of contacts and witnesses.

b. A summary and dates of correspondence and other contacts with the aggrieved person and the respondent.

c. A summary description of other pertinent records.

d. A summary of witness statements.

e. Answers to interrogatories.

6. If an agreement is reached, a written conciliation agreement shall be approved by the commission and signed by the complainant, the respondent and the representative of the commission. The signed conciliation agreement shall have the effect of a commission order.



7. Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of the chapter.

8. a. In case of failure to eliminate the discrimination, the commission shall issue and serve a written notice of hearing before an administrative law judge specifying the nature of the discrimination which appears to have been committed, and requiring the respondent to answer the complaint in writing within 10 days after receipt of the notice of hearing and to appear at the hearing on the appointed date. The notice shall specify a time of hearing not less than 10 days after service of the notice of hearing.

b. In accordance with the requirements of s. 68.11, Wis. Stats., each party at the hearing may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Witnesses shall be sworn by the person conducting the hearing. The administrative law judge may issue subpoenas.

c. The administrative law judge may take notes of the testimony and shall mark and preserve all exhibits. The testimony at the hearing shall be recorded.

9. If, after hearing, the administrative law judge finds by a preponderance of the evidence that the respondent has engaged in discrimination, the administrative law judge shall make proposed written findings and order such action by the respondent as will redress the injury done to the complainant in violation of this chapter, bring respondent into compliance with its provisions and generally effectuate the purpose of this chapter. The commission shall serve a certified copy of the administrative law judge's proposed findings and order on the respondent and complainant.

10. If the administrative law judge finds that the respondent has not engaged in discrimination as alleged in the complaint, the commission shall serve a certified copy of the administrative law judge's proposed findings on the complainant and the respondent together with an order dismissing the complaint.

11. Upon finding that employment discrimination has taken place, an administrative law judge may award back pay. Back pay liability may not accrue from a date more than 2 years prior to the filing of a complaint with the commission. Interim earnings or amountsearnable with reasonable diligence by the person discriminated against shall not operate to reduce backpay allowable, but shall be withheld from the person discriminated against and immediately paid to the state unemployment reserve fund or, in the case of welfare payments, to the welfare agency making such payments.

**109-21. Review of Decision.** 1. a. Pursuant to s. 68.09 Wis. Stats., and s. 320-11, Milwaukee code, any party aggrieved by the investigator's failure to find probable cause or the administrative law judge granting or denying in whole or in part the relief sought shall be entitled to seek review by written request filed with the commission within 30 days of notice to such person of the determination. If review is not sought within the time prescribed, the commission may set aside the proposed findings and order, and remand the action to the administrative law judge for such action necessary to effectuate the purpose of the chapter, or the commission may adopt the proposed findings and orders, and upon adoption, such determination shall become a final determination.

b. Request for review shall state the grounds upon which the person aggrieved contends that the decision should be modified or reversed.

c. The commission shall review the determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

d. The person aggrieved may file with the request for review or within the time specified by the commission, statement of facts, and argument or legal brief in support of the person's position and, at the same time, shall serve a copy of the request for review and the statement of facts and argument or legal brief upon all other parties to the original proceeding. Each party may file a response not later than 10 days after receipt of the copy of the aggrieved party's request for review.

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e. The commission shall mail or deliver to all parties in this action, within 20 days after making a determination, a copy of its decision on review, which shall state the reasons for its decision and advise such persons of the right to appeal that decision, the time in which the appeal shall be taken and the office or person with whom notice of appeal shall be filed. Such determination shall be a final determination.

2. Any party to a proceeding resulting in a final determination may seek judicial review by certiorari within 30 days of the receipt of the final determination, pursuant to ch. 68, Wis. Stats.

**109-23. Forfeiture. 1.** Any person who wilfully violates this chapter or any lawful order of the commission under this chapter shall, for the first violation, forfeit not less than \$500 nor more than \$5,000.

2. For each successive violation within 5 years of having been adjudged to be in violation of this chapter or any lawful order of the commission under this chapter, such person shall forfeit not less than \$1,000 nor more than \$10,000.

3. Each day or fraction thereof on which such person shall wilfully violate this chapter or a lawful order of the commission under this chapter shall be deemed a separate offense.

**109-25. Enforcement. 1.** Whenever in the judgment of the commission, the enforcement of a forfeiture imposed for violation of this chapter or of an order under this chapter is necessary, the commission shall refer the matter in writing to the city attorney for enforcement in the name of the city or the commission.

2. Upon referral, the city attorney may seek enforcement of this chapter in a court of competent jurisdiction.

3. At any time after a complaint is filed, the commission may request the city attorney to file a petition in circuit court, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from performing an act tending to render ineffectual an order the commission may enter with respect to the complaint.

# Housing and Employment Discrimination 109-(HISTORY)

## LEGISLATIVE HISTORY CHAPTER 109

### Abbreviations:

am = amended  
cr = created

ra = renumbered and amended  
rc = repealed and recreated

rn = renumbered  
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 109	rc	892540	10/16/90	1/2/91
109-1-1	am	940829	11/29/94	12/16/94
109-1-2	am	001458	2/27/2001	3/16/2001
109-3-1	am	940829	11/29/94	12/16/94
109-3-10-0	am	940829	11/29/94	12/16/94
109-3-10-d	am	940829	11/29/94	12/16/94
109-3-11	am	001458	2/27/2001	3/16/2001
109-5-0	am	940829	11/29/94	12/16/94
109-5-5-b	am	940829	11/29/94	12/16/94
109-5-9-0	am	940829	11/29/94	12/16/94
109-5-10-a-0	am	940829	11/29/94	12/16/94
109-5-10-b-1	am	940829	11/29/94	12/16/94
109-5-10-b-3-a	am	940829	11/29/94	12/16/94
109-5-10-b-3-b	am	940829	11/29/94	12/16/94
109-5-10-b-3-d	am	940829	11/29/94	12/16/94
109-7-6	am	940829	11/29/94	12/16/94
109-7-7	am	940829	11/29/94	12/16/94
109-9-0	am	940829	11/29/94	12/16/94
109-9-6	am	940829	11/29/94	12/16/94
109-9-8	cr	901997	3/26/91	4/12/91
109-9-8	am	940829	11/29/94	12/16/94
109-11-2	am	940829	11/29/94	12/16/94
109-11-3	am	940829	11/29/94	12/16/94
109-11-5	am	940829	11/29/94	12/16/94
109-15-0	am	940829	11/29/94	12/16/94
109-15-1	am	940829	11/29/94	12/16/94
109-15-1	am	990606	7/29/99	8/17/99
109-15-3	am	991566	2/8/2000	2/25/2000

**[Pages 654 to 656 are blank]**